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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,363	10/27/1999	FREDERICK MURRAY BURG	113571	4560

26652 7590 02/11/2005

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EXAMINER

LIN, KENNY S

ART UNIT PAPER NUMBER

2154

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/428,363	Applicant(s) BURG ET AL.	
	Examiner Kenny Lin	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,7-15 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7-15 and 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/27/1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-4, 7-15 and 18-27 are presented for examination.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4, 7-15 and 18-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lack proper antecedence basis:

- i. Claim 1, line 7 and claim 13, line 5 – the time-in-queue (i.e., a time-in-queue; this is the first time the time-in-queue is introduced);
- ii. Claim 1, line 8 and claim 13, line 6 – the status an enqueued call (i.e., the status of *the* enqueued call; enqueued call was already introduced);
- iii. Claim 1, line 14 and claim 13, line 16 – a time-in-queue (i.e., the time-in-queue; time-in-queue was introduced).

#### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 7-15 and 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goss et al (hereinafter Goss), U.S. Patent Number 6,493,447, in view of Applicant Admitted Prior Art (hereinafter AAPA).

6. Goss was cited in the previous office action.

7. As per claims 1 and 13, Goss taught the invention substantially as claimed including a method/apparatus for setting up a call between a subscriber premises and a call center (col.1, lines 62-65) comprising:

- a. Receiving a call set up request at a service control point/service node (contact server) from a gateway responsive to the subscriber premises (figs.1-2, 6, col.1, lines 62-65, col.3, lines 28-29, col.4, lines 13-22, 34-46, col.6, lines 16-27, 56-65, col.22, lines 53-64), said gateway being connected to the subscriber premises via a data network (col.22, lines 53-64), the service control point/service node for: controlling other communication network elements associated with call set up (col.4, lines 13-22, 34-46);
- b. Sending an availability query (158, fig.6, Wait # minutes before contacting me, col.13, lines 7-15) from the service control point/service node to the call center via the data network (col.5, lines 63-66, col.6, lines 16-27, 56-65, col.7, lines 1-7, col.13, lines 7-15);

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- c. Preparing a call set up instruction at the service control point/service node for setting up the call initiated by the call center to the subscriber premises if an availability reply is received at the service control point/service node from the call center (col.2, lines 2-8, 12-13, col.6, lines 16-24, 56-65, col.7, lines 1-6, 26-29, 59-64, col.8, lines 11-18, 35-42); and
- d. Estimating, at the service control point/service node, a time-in-queue and preparing a call queue status message for delivery to the gateway from the service control point/service node if an unavailability reply is received before the availability reply is received from the call center (col.1, lines 19-22, col.2, lines 14-16, col.7, lines 1-10, col.9, lines 13-19, col.23, lines 42-45, 66-67).

8. Goss further taught to use timer in queue to determine whether the request will be rejected or not according to the length of time the user request is in queue, which substantially determines the time a subscriber has been waiting (col.23, lines 42-45). Goss did not specifically teach to estimate a time-in-queue for the call center to become available to initiate the call or for an enqueued call and reporting the status of an enqueued call; and that the service control point/service node is in a communication network from a gateway. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goss' system to use the timer in queue taught by Goss for determining whether the request will be rejected or not to also estimate a time-in-queue to estimate how long the subscriber has been waiting (col.23, lines 42-45). Furthermore, AAPA taught that the service control point/service node can be in separate communication network from a gateway (see fig.1 of this application)

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and that the server control point/service node includes program to queue calls waiting for service at call center to estimate the time-in-queue for an enqueued call, and to notify the enqueued callers of their estimated time-in-queue (see page 1, lines 17-19 of this application). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and AAPA because AAPA's teaching of determining time-in-queue helps Goss' system to show how long the subscriber has been waiting in queue for help (see page 1, lines 17-19 of this application).

9. As per claims 2 and 14, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught that a call path between the call center and the subscriber premises is provided (col.3, lines 65-67, col.4, lines 23-26).

10. As per claim 3, Goss and AAPA taught the invention substantially as claimed in claim 2. Goss further taught that a network switch provides the call path in response to the call set up instruction (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

11. As per claims 4 and 15, Goss and AAPA taught the invention substantially as claimed in claims 2 and 14. Goss further taught that a call to the subscriber premises is placed when providing the call path (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

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12. As per claims 7 and 18, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught to sending an availability query (158, fig.6, Wait # minutes before contacting me, col.13, lines 7-15) from the service control point/service node to the call center via the data network (col.5, lines 63-66, col.6, lines 16-27, 56-65, col.7, lines 1-7, col.13, lines 7-15). Goss did not specifically teach to send a call queue status message. AAPA taught to notify enqueued callers of their estimated time-in-queue (see page 1, lines 17-19 of this application). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and AAPA because AAPA's teachings of determining time-in-queue and notifying the callers helps to notify the users of Goss' system how long they have been waiting for help.

13. As per claims 8 and 19, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught to receive, at the service control point/service node, an agent available reply from the call center (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42) and to prepare of an updated call queue status message for delivery to the gateway (col.9, lines 30-46).

14. As per claims 9 and 20, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught to prepare, at the service control point/service node, an updated call queue status message for delivery to the gateway after receiving the availability reply (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.9, lines 30-46).

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15. As per claims 10 and 21, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the subscriber premises include a computer for communication with the gateway and a telephone for communicating with the call center (44, 46, fig.1, col.5, lines 10-13).

16. As per claims 11-12 and 22-23, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught to prepare, at the service control point/service node, a call connection message related to the call being set up between the call center and the subscriber premises and sending the call connection message to the gateway for delivery to the subscriber premises (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.14, lines 30-37, 40-45).

17. As per claims 24 and 26, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the data network is Internet (col.1, lines 62-65).

18. As per claims 25 and 27, Goss and AAPA taught the invention substantially as claimed in claims 1 and 13. Goss further taught to utilize a telephone at the subscriber premises for enabling communication between a user at the subscriber premises and an available agent at the call center (col.2, lines 2-8, 11-13).

### *Conclusion*

19. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

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20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl  
February 4, 2005

A handwritten signature in cursive script, appearing to read 'John Follansbee'.

John Follansbee